

ORDINANCE NO. 11-116

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, that Division 2, Vehicle Towing and Impoundment, of Article II, Administration and Enforcement, of Chapter 25, Traffic and Vehicles, of the Code of Ordinances, City of Huntsville, Alabama, as adopted and approved on the 24th day of April, 2003, be and the same is hereby amended as follows:

Section 1. **Section 25-71 is hereby amended to read as follows:**

Sec. 25-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the operator of a wrecker service who, after being advised of the requirements and regulations for participation therein, makes known his/her desire to voluntarily participate in the city's rotation roster by making application for the same.

Chief or police chief shall refer to the chief of the city police department or his/her designee.

City is the City of Huntsville.

Contract wrecker shall mean that wrecker company which has contracted with the city to provide wrecker services requested by the City of Huntsville, for public safety reasons, as opposed to wrecker services requested by a private individual.

Department means the city police department.

Disabled vehicle is any vehicle which has lost its ability of self-propulsion or its ability to be transported or drawn on a public street by normal methods other than by a wrecker.

Fire department emergency incident commander is the high ranking fire department official who is in charge of hazardous material incidents and other emergency situations which may arise while executing the mission of the fire department, duties include but are not limited to the following: management

decisions related to personnel, equipment, procedures, etc., at the scene of any emergency incident.

Fire extinguisher shall mean a portable device used for extinguishing fires as defined by the National Board of Fire Underwriters, dry chemical extinguisher with either a 5 or 10-B.C. rating and underwriters laboratory approval in a quick release carrier which is capable of extinguishing fires.

Large wreckers shall be classified as any of the following types of wreckers: Tandem dual wheel or tandem rear end wreckers, or twin booms with factory rated or tested lifting capacity of twelve and five-tenths (12.5) tons or over per drum and per winch and per winch line, with dual drum capacity, hydraulic or power take-off driven, and shall be equipped with dual rear twin-screw axles, and shall be equipped with quick air couplings for towing vehicles with air brakes, and shall be utilized to tow any vehicle having a gross vehicle weight exceeding ten thousand (10,000) pounds, or any vehicle having dual rear axles or any tractor-trailer combination. The wrecker company shall provide documentation of lifting capacity from the factory or qualified testing facility.

Motor vehicle shall mean every vehicle which is self-propelled.

Owner is any person who holds a legal title to a motor vehicle or who has the legal right of possession thereof.

Person is any individual, partnership or association, syndicate, company, firm, trust, corporation, department, bureau, agency, business, bank, or any entity recognized by law.

Place of business shall mean the place where the wrecker company conducts business and is licensed pursuant to municipal law.

Police officer means any duly sworn law enforcement officer employed by the city.

Repossessor shall mean any person in the business of providing repossession services to others or who performs repossession services on its own behalf, and includes, but is not limited to, officers, managers, agents or employees thereof.

Repossession wrecker shall mean any wrecker or large wrecker, as defined herein, used for the sole purpose of repossessing vehicles. Repossession wrecker shall include vehicles commonly referred to as "snatch trucks," as well as any and all motor vehicles used to tow or remove any vehicle from one location to another. Repossession wrecker shall not apply

to wreckers used for the dual purpose of performing regular wrecker services and repossession services.

Rotation Roster is the rotation list of wrecker companies available for request by private individuals as prepared and used as provided in the execution of this chapter.

Street is a thoroughfare including public streets, lanes, alleys, etc., within the city and its police jurisdiction which is reserved for vehicle traffic.

Traffic hazard is any disabled vehicle, other than those resulting from a vehicular accident as defined herein, and which is an obstruction to the normal movement of traffic on any public street.

Vehicle shall mean every device in or by which any person or property is or may be transported or drawn upon a public street, except devices moved only by human power, or used exclusively upon stationary rails or tracks, and shall include trailers and semi-trailers.

Vehicular accident is any incident involving contact between a vehicle and any other object or vehicle which results in disabling damage to any vehicle requiring the services of a wrecker.

Wrecker shall mean any motor vehicle used for the purpose of towing or removing motor vehicles from one location to another location, for any purpose.

Wrecker business shall mean the act of towing or removing motor vehicles from one location to another location, for any reason, where either the beginning or ending location is within the city. This definition shall not include situations whereby a business owns or leases wreckers for the sole purpose of towing other vehicles owned or leased by the business.

Wrecker company shall mean any person engaged in the wrecker business.

Wrecker operator is any person who drives or otherwise uses a wrecker for wrecker business as defined herein.

Section 2. Section 25-75 is hereby amended to read as follows:

Sec. 25-75. Vehicle inspection.

Each wrecker company doing business in the city shall be inspected by the Huntsville Police Department at least once per

year, but more often if complaints arise, to ensure compliance with the following provisions:

(a) Equipment necessary for all wreckers:

1. All equipment necessary for the towing vehicle or combination of towing vehicle and towed vehicle must comply with the applicable requirements of 49 C.F.R. §§ 390-399, of the Federal Motor Carrier Rules and Regulations, as the same currently exist or as they may be amended in the future. Any future amendments of the Federal Motor Carrier Rules and Regulations which results in a conflict with the additional requirements contained in this section shall be resolved in favor of compliance with the Federal Motor Carrier Rules and Regulations;

2. Certification: A garage or mechanic licensed to do business in the city, who is not an owner, employee or otherwise connected with any wrecker company regulated by this article, must inspect and issue a certificate upon inspection that all wreckers of the wrecker company are in safe operating condition, the following mechanical functions and systems are in proper working order and each wrecker of the company has the following additional equipment in the vehicle:

a. Wheels: bearings, lugs;

b. Tires: front left and right (no recap) minimum tread depth 5/32; rear left, outside, and all drive tires minimum tread depth 4/32;

c. Brakes: master cylinder; fluid level, leaks; wheel cylinder; brake hose and lines; hydrovac and lines; vacuum or air tanks; parking brake; vacuum or air gauge and buzzer or light; brake pedal fade; pedal pads, if factory equipped; adjustment; brakes;

d. Exhaust system: exhaust manifold; exhaust pipe; muffler; tail pipe;

e. Rear end: springs, shackles and clamps; leaks;

f. Clutch and transmission: adjustment, release;

g. Body: seats securely fastened and in good condition; no broken glass in any window, and no broken or cracked glass in any windshield which obstructs the driver's vision; mirrors, left and

right; wipers, windshield washers; horn; fire extinguisher; markings; driver's and passenger seat belts; flags and flares; sun visor for driver;

h. Steering: steering arm; tie rod-ends and drag-link; front springs, shackles and clamps; sector to frame mounting; steering free play;

i. Most current edition of the Department of Transportation Emergency Response Guide Book.

3. Each wrecker shall be equipped with factory installed one-ton capacity dual wheels. Dummy wheels are prohibited;

4. Each wrecker shall be equipped with a power winch, winch line, and boom with a factory rated lifting capacity, or a tested capacity, of not less than eight thousand (8,000) pounds single line capability. At the time of application, the wrecker operator shall provide documentation of lifting capacity from the factory or qualified testing facility;

5. Appropriate equipment shall be attached to each wrecker in order to prevent any vehicle being hauled or towed from being further damaged by coasting, rocking, swinging, or slamming into the wrecker or any part thereof;

6. Each wrecker shall have the following standard equipment: tow bar; safety chains; operating, fully charged 5-B.C. rated fire extinguisher mounted in an easily accessible location; wrecking bars; brooms; shovel; axe; dolly; at least three (3) reflective road warning devices; a minimum of forty (40) pounds of oil dry; and a minimum of one hundred (100) feet of three-eighths inch diameter or larger steel cable;

7. Yellow emergency lights shall be affixed above the top of the cab of the wrecker. The warning lights shall be visible from a distance of not less than one thousand five hundred (1,500) feet under normal atmospheric conditions at night. Sirens are prohibited;

8. The name, address, and telephone number of the wrecker operator shall be permanently affixed to and prominently displayed on both sides of the wrecker, using letters and numerals of a contrasting color than the rest of the vehicle that are clearly visible from a distance of one hundred (100) feet. The lettering used for the operator name shall be at least four (4) inches tall and the lettering and numerals used for the address and telephone number shall be at least two (2) inches tall;

9. The wrecker company shall not place or imprint on its vehicles, buildings, equipment, clothing, advertisements, or correspondence anything suggesting or implying any official relationship between the wrecker company and the city. Without limitation, the wrecker company shall not use any colors or paint schemes similar to those used by the police department; decals similar in design to department decals; any logo similar to those employed by the city or any of its departments; or any other language or wording which would cause the general public to believe the wrecker is owned or operated by the city;

10. Each wrecker shall be properly equipped with clearance and marker lights and all other equipment as required by law;

11. Each wrecker shall be equipped with warning devices, as the same are required by law applicable to trucks;

12. Each wrecker shall be equipped with dual rear adjustable floodlights with a minimum of twenty thousand (20,000) candlepower each.

(b) Equipment necessary for large wreckers:

In addition to the requirements contained in subsection (a), large wreckers, as defined herein, are required to be equipped with the following additional items and equipment:

1. Air control valve or an electrical break capability with an electrical break control box for the purpose of providing braking capability for the vehicle or trailer being towed or removed;

2. Two (2) chock blocks to prevent rolling or slippage of the wrecker. These chock blocks should have the capability of being secured firmly to the wrecker and should be of a width equal to that of the dual wheels of the wrecker;

3. A minimum of two hundred (200) feet of five-eighths inch steel cable on multiple drums;

4. Air brakes constructed to lock the rear wheels automatically upon failure and to supply air to disabled vehicles;

5. One (1) pair of bolt cutters with a minimum one-half inch opening;

6. A minimum total of two (2) operating, fully charged 10-B.C. rated fire extinguishers mounted in easily accessible locations;

7. External air hookups and hoses;

8. At least six (6) reflective road warning devices;

9. A minimum of eighty (80) pounds of oil dry.

(c) Equipment necessary for roll back wreckers:

In addition to the requirements contained in subsection (a), roll back wreckers, as defined herein, are required to be equipped under the following modifications:

1. A one-ton truck with a nineteen foot bed, dual wheels, and one (1) power winch with an eight thousand-pound capacity;

2. A brake lock device;

3. Two (2) safety tie-down chains at least ten (10) feet in length;

4. The following standard equipment shall be substituted for the requirements of subsection (a)(5) above: tow bar; safety chains; operating, fully charged 5-B.C. rated fire extinguisher mounted in an easily accessible location; wrecking bars; brooms; shovel; axe; at least three (3) reflective road warning devices; a minimum of forty (40) pounds of oil dry; and a minimum of fifty (50) feet of three-eighths inch diameter or larger steel cable.

(d) Equipment necessary for Repossession wreckers:

In addition to the requirements contained in subsection (a), repossession wreckers, as defined herein, are required to be equipped under the following modifications:

1. The following standard equipment shall be substituted for the requirements of subsection (a)(5) above: tow bar; safety chains; operating, fully charged 5-B.C. rated fire extinguisher mounted in an easily accessible location; wrecking bars; and at least three (3) reflective road warning devices.

2. The following shall be substituted for the requirements of subsection (a)(7) above: The name and USDOT number of the reposessor shall be permanently affixed to and prominently displayed on both sides of the wrecker, using letters and numerals of a contrasting color than the rest of the vehicle that are clearly visible from a distance of one hundred (100) feet. The lettering used for the reposessor name shall be at least four (4) inches tall and the lettering and numerals used for the USDOT number shall be at least two (2) inches tall. Additionally, all repossession wreckers shall also be clearly marked as a "Repossession Wrecker" or "Repo Wrecker" in lettering of equal size to the reposessor name.

3. Repossession wreckers shall comply with all other requirements as stated in the above subsections.

Following inspection by the Huntsville Police Department, each wrecker shall be issued a decal which shall be displayed in the lower left corner of the windshield. Each decal shall indicate the wrecker permit number and the current calendar year. The fee for each annual inspection and issuance of each annual inspection decal shall be \$15.

Section 3. Section 25-82 is hereby amended to read as follows:

Sec. 25-82. Reports of repossession required.

(a) Every wrecker company or reposessor who repossesses a motor vehicle within the city limits shall notify the Huntsville Police Department Records Division by providing the information indicated in section 25-84 within one (1) hour after the repossession is completed, and shall also file a written Report of Repossession or Towing, as indicated in section 25-84, with the Huntsville Police Department Records Division within five (5) days after the repossession is completed.

(b) At the time of repossession, every wrecker company operator or reposessor who repossess a motor vehicle within the city limits shall be required to have official paperwork authorizing the repossession of the vehicle on his/her person. The authorizing paperwork should include, at a minimum: the name of the authorizing entity, the name of the person/entity believed to be in possession of the vehicle, and a description of the vehicle to include tag number and Vehicle Identification Number.

Section 4. Section 25-85 is hereby amended to read as follows:

Sec. 25-85. Applications and conditions for participation.

(a) *Written request for participation in the rotation system.* Each applicant desiring to be placed on the rotation roster shall file a written application with the police chief on a form furnished by the police department. A new applicant may file a written application at any time. Once an applicant has been accepted and placed on the rotation roster, applications for renewal shall be submitted in January of each year thereafter, and shall adhere to all of the same terms and

conditions as apply to new applicants. An applicant may request to discontinue participation in the rotation roster at any time.

(b) *Equipment certification.* Each applicant shall certify that each wrecker to be utilized in service of the rotation roster meets or exceeds the following requirements at the time application is made:

1. For each regular haul wrecker, in addition to the criteria established in section 25-75, a conventional wrecker must be equipped with dollies and wheel lift or hydraulic operated tilting bed trucks, with one (1) ton rated chassis or larger and equipped with a broom and shovel, two (2) fully charged 10-B.C. rated fire extinguishers, and agents to remove oil spills from the roadway;

2. The name of the company must be permanently affixed on each side of the wrecker in four (4) inch high or larger letters and the address and telephone number in two (2) inch high or larger letters;

3. All safety equipment, horns, lights, flashers, amber lights, brakes, and other similar equipment must be operational.

(c) *Copy of rules and regulations.* The chief will furnish each applicant with a copy of the rules and regulations pertaining to the operation of wreckers within the rotation system.

(d) *Inspection of wreckers and equipment.* Prior to being placed on the rotation roster, the applicant shall present and make available for inspection by the chief all wreckers and equipment that are to be used by the applicant for the provision of wrecker services.

(e) *Business license required.* Prior to being placed on the rotation roster, the applicant must furnish the chief with a copy of a current, valid business license issued by the city in the applicant's name.

(f) *Storage facilities.* Prior to being placed on the rotation roster, the applicant must agree to a preapproval inspection of the premises to ensure adequate outside storage sufficient to accommodate a minimum of ten (10) vehicles, which is well and continuously lighted during the hours of darkness, and, at a minimum, include an area completely enclosed within a six (6) foot high chain link or other equivalent fencing material designed to protect against unauthorized entry. Any inside storage must be within a supervised or locked building. In addition to the provision of a secure storage area, each wrecker company shall employ reasonable safeguards and procedures so that all personal belongings and contents in a stored vehicle remain intact and are returned to the vehicle's owner or agent upon request or upon release of the vehicle.

(g) *Location of storage facilities.* The wrecker company, wrecker(s) utilized, operators(s), and storage facilities must be located within the city limits or within ten miles of the city administration building. A map of those areas falling within ten miles of the administration building shall be kept on file by the city clerk/treasurer.

(h) *Certificate of Insurance.* Each wrecker company participating on the rotation roster, from the time he/she moves or otherwise makes contact with any vehicle to be towed, assumes liability for injury to persons, damage to property, fires, or theft resulting from the operator's negligent acts or omissions. Therefore, prior to being placed on the rotation roster, the applicant shall furnish the chief with a certificate of insurance that indicates compliance with the following insurance guidelines:

1. Submit a certificate of insurance naming the City of Huntsville as an additional insured and stating the City will be provided with 30 days notice of any material change, cancellation or non-renewal. The certificate of insurance should also state that the coverages below are in force:

Minimum coverage and limits acceptable (expanded coverage or limits are acceptable)**:

i. <u>Automobile Dealers</u>		<u>Limits</u>	
Garage Liability			
\$100,000/\$300,000/\$100,000			
Limits	Covering any auto (21)	Split Limits, or	
	Owned Autos (22)	\$500,000 Combined Single Limit	
	Auto Medical Payments	\$1,000 per accident	
	Uninsured Motorists	\$20,000/\$40,000 Split	
Limit		or	\$40,000 Combined Single
Garage Keepers Legal Liability		Maximum Deductible	
Specified Perils		\$1,000	\$40,000
Collision		\$1,000	\$40,000
ii. <u>Non Dealers (Repair Operations or Storage Lots)</u>			
Garage Liability			
\$100,000/\$300,000/\$100,000			
Limits	Covering: Owned Autos (22)	Split Limits, or	
	Single	\$500,000 Combined	
	or specifically	Limit	
	Described Auto (27) *		
Limits	Auto Medical Payments	\$1,000 per accident	
	Uninsured Motorists	\$20,000/\$40,000 Split	
		or	\$40,000 Combined Single
Garage Keepers Legal Liability		Maximum Deductible	
Specified Perils		\$1,000	\$40,000
Collision		\$1,000	\$40,000
iii. <u>Non Dealers (No Repair Operations & No Storage Lots - Wrecker Service Only)</u>			
Automobile or Garage			
\$100,000/\$300,000/\$100,000			
Liability		Limits, or	
Owned Autos	Auto Coverage: Any Auto (1)	\$500,000 Combined Single	
	(2), or	Limit	
	specifically Described		

Autos (7)*
 Garage Coverage: Owned Autos (22)
 or specifically Described
 Autos (27)*

Auto Medical Payments	\$1,000 per accident	
Uninsured Motorists	\$20,000/\$40,000	Split
Limits	or \$40,000	Combined Single
Limit		

Garage Keepers Legal	Maximum Deductible	
Liability		
Specified Perils	\$1,000	\$40,000
Collision	\$1,000	\$40,000

*Schedule of autos used in the wrecker operation must be attached.

**Insurance requirements are the same as previously adopted by ordinance.

(i) *Decal required.* A department decal will be placed on each participating wrecker in the lower left corner of the windshield to indicate current inspection and eligibility to participate in the rotation system. Each decal shall indicate the rotation roster permit number and the current calendar year. The fee for each wrecker inspection and issuance of each decal shall be \$15.00.

(j) *Valid license plates required.* Each wrecker company shall be required to maintain a current, valid license plate on each wrecker used in responding to rotation roster calls.

(k) *Wrecker company listed only once.* Each wrecker company shall be listed on the rotation roster only once. This listing will use the name the wrecker company submitted during the application process and under which he/she is qualified under this chapter. It is prohibited for a wrecker company conducting business at one location to receive multiple listings by utilizing a different or fictitious name for wreckers operating from the same location or by utilizing wreckers with the same name out of different locations within the city. Wrecker companies operating more than one rotation wrecker

business within the city must maintain completely separate offices, required documentation, logs, and assigned rotation wreckers at the approved locations. A wrecker business will be regarded as having separate locations only when each business or company continuously and regularly occupies separate, different, permanent, nonresidential, non-overlapping structures, each with its own phone number and service, and each keeping its own towing and recovery books, logs, tax records, and other required records, and each business open to customers between the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday. Attempts to circumvent the intent of the rotation system will result in the removal of all wrecker companies and operators associated in any way to the offending wrecker company.

(1) *Authorization, placement on roster.* When the chief is satisfied that the applicant is qualified, he/she will place the applicant on the rotation roster and so notify applicant.

Section 5. Section 25-86 is hereby adopted and shall read as follows:

Sec. 25-86. Operation.

The following conditions shall govern the conduct of operators on the rotation roster:

(a) *Obedience to traffic laws; operator safety.* No operator shall speed or violate any other traffic laws or disregard any traffic control devices while answering a call. The provision of wrecker services shall be done in a reasonable and safe manner and no operator shall needlessly congest the scene of a vehicle accident.

(b) *Rotation system participation.* Authorization to participate in the rotation system shall be considered a personal grant of permission to the wrecker company who made application for the same and shall constitute authorization only to that particular legal entity as it operates a bona fide wrecker service. It shall not be subject to assignment, transfer or lease; neither shall the wrecker company sublet the use of the name under which rotation system participation was

requested and neither shall the operator permit the exercise by another in any manner of the rights or privileges granted by authorization for participation in the rotation system. Participation on the rotation roster shall not constitute a property interest. Authorization under this article is void if the business address or location of facilities is changed. Further, any change in ownership due to sale, merger, dissolution, death or any other reason shall result in removal of the wrecker company from the rotation roster and shall necessitate a new application being filed.

(c) *Submission of daytime and nighttime telephone numbers.* At the time of application, each wrecker company shall furnish the chief with one telephone number to be used for dispatches during the day and one telephone number to be used for dispatches during the night. Any changes in the aforementioned telephone numbers shall be immediately transmitted to the chief. No pagers or answering machines are permitted as call-out numbers.

(d) *Twenty-four hour service; hours of availability for vehicle access.* Each wrecker company shall maintain and be fully capable of providing wrecker services twenty-four (24) hours a day, seven (7) days a week. Further, each wrecker company shall, at no additional charge, provide access, immediately upon request, to its storage facilities between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, to individuals legally entitled or otherwise authorized to view, inspect, access, claim or retrieve personal property or vehicles stored therein.

(e) *Availability.* One attempt by phone shall be made to reach the wrecker service appearing next on the appropriate roster. The acceptance of an assignment may be made by any authorized representative of the company who can verify an immediate dispatch of the wrecker. If no contact is made or the company is unable to accept the call, that company shall be passed for that rotation of the roster and the next company in line shall be called. A wrecker operator shall not accept a dispatch for wrecker services from the rotation roster unless

the operator has a wrecker and the necessary equipment immediately available to perform the requested service.

(f) *Use of lights.* No wrecker operator shall use yellow emergency lights when in route to a service or wrecker call. The use of yellow emergency lights is authorized only at the scene of an accident or other call for service and when towing a vehicle from the scene. The use of "wig-wag" headlights is prohibited at all times.

(g) *Response with own wrecker.* The wrecker company shall respond to each dispatch received from the city with its own wrecker and shall not send another wrecker service in response to a rotation roster dispatch. The responding wrecker must display the name of the wrecker company called by the police department. In the event the dispatched wrecker is unable to perform the required services or needs assistance, the police officer has the discretion to cancel that wrecker and/or dispatch another rotation wrecker.

(h) *Response while impaired prohibited.* No wrecker operator shall respond to a dispatch when he or she has consumed alcohol in any amount or has ingested either prescription or non-prescription drugs that may impair motor skills. No wrecker operator shall respond to a dispatch when he or she is under the influence of any controlled substance.

(i) *Restriction for conviction of crimes.* No wrecker operator shall be on the rotation roster if he or she has been convicted of any crime within the past five (5) years that is related to his or her capability to provide wrecker services to the public in a safe and responsible manner.

(j) *Proficiency.* All wrecker operators on the rotation roster shall be proficient and competent in the operation of such wrecker.

(k) *Driver's license required.* No person shall be a wrecker operator or be allowed to drive any wrecker unless such person has a valid state driver's license and a commercial driver's license, if required by law, issued by state department of public safety.

(l) *Reflective wear required.* While on the scene of any dispatch, all wrecker operators shall wear reflective vests, coats or shirts that meet federal standards as those standards may be amended.

(m) *Attendance of hazardous material training sessions required.* All wrecker operators shall attend hazardous material training sessions as required by the chief.

(n) *Removal of glass, debris, etc.* Operators shall remove all glass, injurious substances, oil spills, and other debris at or near the scene of the vehicle as required by Section 22-81 of this Code of Ordinances.

(o) *Notice of acquisition of wrecker.* Each wrecker company on the rotation roster shall give notice to the chief of any wrecker acquired subsequent to placement on the rotation roster. The police department will inspect the wrecker to determine if it meets all the criteria required by this chapter. No wrecker shall be allowed to perform any rotation roster activity unless properly inspected and decaled in accordance with section 25-85.

(p) *Compliance with laws.* Every wrecker company must comply with all applicable federal, state and local laws.

Section 6. Section 25-87 is hereby adopted and shall read as follows:

Sec. 25-87. Towing and equipment specifications.

(a) The minimum equipment standards referred to throughout this chapter shall be determined solely by the manufacturer's specifications for the capabilities and capacities of the wreckers and all towing equipment.

(b) Each wrecker shall be equipped with only those winches and cranes that have been produced and constructed by a manufacturer of such equipment which carries product liability and which regularly produces winches and cranes. A winch or crane will not be prohibited by this section if the wrecker operator submits to the chief a certification from a reputable

testing laboratory, regularly engaged in the testing of such equipment or similar equipment, indicating that the capacity of the winch or crane is not less than what is required in this chapter.

Section 7. Section 25-88 is hereby amended to read as follows:

Sec. 25-88. Storage procedures.

(a) All personal property left in a vehicle and which is unclaimed will be handled in accordance with existing laws.

(b) Any person showing proof of identity and showing either proof of ownership or written authorization from the vehicle's registered or legal owner may, without charge, inspect the vehicle and remove personal belongings therefrom during normal business hours. For purposes of this subsection, personal belongings shall be defined as those items which belong to the owner, driver or other occupant of the vehicle and which are not attached in any permanent or semi-permanent manner to the interior or exterior of the vehicle. For purposes of this subsection, permanent or semi-permanent shall mean that the removal of an attached object would cause physical damage or deformity to the interior or exterior of the vehicle.

Section 8. Section 25-89 is hereby amended to read as follows:

Sec. 25-89. Records.

(a) Each operator shall maintain accurate records reflecting all wrecker services performed pursuant to his/her participation on the rotation roster. Each record of wrecker service shall include the following information:

1. The date and time the operator was contacted and requested to perform the service;
2. The name of the person requesting the service;

3. The location of the vehicle;
4. A description of the towed vehicle, including license tag and identification number;
5. The owner or driver of the vehicle, if known;
6. The service charge and fees; and
7. The final disposition of the vehicle.

Regardless of the method of payment, each customer shall be given a written receipt containing the above required information, and a copy of same shall be maintained by the wrecker company for all wrecker services provided.

(b) All records required herein must be available immediately upon request so long as the request is made between the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday for inspection by the chief or other city representatives. Advanced notice of an inspection by the chief or other city representative shall not be required.

(c) The operator shall maintain the aforementioned records for the current calendar year and the preceding calendar year.

(d) A record of all abandoned motor vehicles is to be maintained by the wrecker operator and any abandoned motor vehicle sold or disposed of by the operator shall be so sold or disposed of in accordance with Alabama Code §§ 32-13-1 *et seq.*, as may be amended.

Section 9. Section 25-90 is hereby adopted to read as follows:

Sec. 25-90. Rotation Roster.

(a) A wrecker shall be called from the rotation roster when the following circumstances occur: when the owner, driver, or person in charge of a vehicle to be towed has been advised by

the officer on the scene that such vehicle must be removed and that he may call or request the wrecker of his choice. In the event he indicates that he has no preference, or the wrecker of his choice fails to respond to the call within a reasonable period of time considering the time of day, the weather conditions and the traffic conditions, the officer shall see that the next wrecker from the appropriate roster shall be called. In no event shall any officer suggest, direct, or otherwise imply that a particular wrecker be called.

(b) A wrecker operator shall promptly respond to a dispatch and arrive on-scene with a fully functional wrecker within thirty (30) minutes under normal driving conditions. If a wrecker operator is not capable at the time of dispatch to so respond, he/she shall immediately notify the department's communication center of this fact. If the wrecker operator provides immediate notice of the delay and provides a reasonable time of arrival on-scene, the wrecker operator may take up to a total of forty (40) minutes from the time of dispatch to arrive. If this is not feasible, however, the wrecker operator shall make the same known to the department's communication center and the wrecker company will be passed over for that rotation and the dispatch will go to the next wrecker company on the rotation roster. When determining whether a violation of this provision has occurred, the police department shall consider the time of day, the weather conditions and traffic conditions.

(c) When a wrecker operator responds to a dispatch, but renders no wrecker services through no fault of his/her own, the wrecker company will not lose position on the rotation roster if the wrecker operator provides prompt notification of the same to the department's communications center.

(d) Two separate rosters are established as follows:

1. Regular Haul Roster: This roster shall be in effect twenty-four (24) hours a day, seven (7) days a week for assignment by the police department to tow up to 3/4 ton vehicles for those persons who have no preference as to the company to use; and

2. Large Haul Roster: This roster shall be in effect twenty-four (24) hours a day, seven (7) days a week for assignment by the police department to tow vehicles over 3/4 ton for those persons who have no preference as to the company to use.

(e) If the wrecker operator does not arrive on-scene within the time requirements established herein or if the public health, safety and welfare necessitate more expeditious action, the police department reserves the right to request the services of the next wrecker company on the rotation roster. Under these circumstances, the wrecker company who received the first call will forfeit his/her position on the rotation roster for that turn. Any wrecker operator who is late in responding to dispatches for wrecker service without justification may be subject to penalties as provided herein.

(f) The chief has the right to inspect any wrecker or equipment of a wrecker company on the city's rotation roster at any time to ascertain if it is being properly maintained and all required equipment is on the wrecker and in proper operating order.

(g) All wrecker companies on the rotation roster shall have wreckers and equipment inspected annually by the police department. A current inspection sticker will be issued by the department and must be properly displayed at all times.

Section 10. Section 25-91 is hereby amended to read as follows:

Sec. 25-91. Rates and charges.

(a) The maximum fees for wrecker services provided by any wrecker service company on the rotation roster in regard to services provided as a result of rotation system dispatch shall not exceed the following amounts per wrecker, unless otherwise indicated:

1. Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 10,000 lbs. or less-- \$125.00.

2. Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 10,001 lbs. through 26,000 lbs. -- \$150.00.

3. Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 26,001 lbs. or more, or any vehicle with more than two (2) axles --\$275.00.

4. Towing of wrecked or disabled vehicle with a trailer or other vehicle attached in tandem: \$50.00 per trailer or vehicle attached in tandem.

5. Towing of wrecked or disabled vehicle with a trailer or other vehicle attached in tandem, when the tandem trailer or other vehicle exceeds forty (40) feet in length: \$75.00 per trailer or vehicle attached in tandem.

[Note: Towing services provided hereunder include cleaning of debris from roadway, pickup and towing of vehicle to any destination within the city limits of Huntsville, Alabama.]

6. Oil dry: Included in towing services.

7. Righting: Two-axle vehicle weighing 10,000 lbs or less -- \$50.00 for the first hour and prorated in ten (10) minute increments thereafter based on \$50.00 per hour.

8. Righting: Two-axle vehicle weighing 10,001 lbs through 26,000 lbs -- \$150.00 for the first hour and prorated in ten (10) minute increments thereafter based on \$150.00 per hour.

9. Righting: Two-axle vehicle weighing 26,001 lbs or more, or any vehicle with more than two (2) axles --\$275.00 for the first hour and prorated in ten (10) minute increments thereafter based on \$275.00 per hour.

10. Winching: Two-axle vehicle weighing 10,000 lbs or less --\$50.00 for the first hour and prorated in ten (10) minute increments thereafter based on \$50.00 per hour.

11. Winching: Two-axle vehicle weighing 10,001 lbs through 26,000 lbs -- \$150.00 for the first hour and prorated in ten (10) minute increments thereafter based on \$150.00 per hour.

12. Winching: Two-axle vehicle weighing 26,001 lbs or more, or any vehicle with more than two (2) axles --

\$275.00 for the first hour and prorated in ten (10) minute increments thereafter based on \$275.00 per hour.

[Note: For the purposes of this section, winching shall be defined as the removal of a vehicle, trailer or other piece of equipment from a location inaccessible to a wrecker to a location where the object of removal may be safely secured and towed by a wrecker. Winching shall not include any incidental or routine winching necessary to load any vehicle onto the wrecker.]

13. Righting or lifting vehicle by airbag, per pound lifted: \$0.035.

14. Forklift, backhoe, trackhoe, and any other necessary recovery equipment services shall be at commercial rental rates plus ten (10) percent per hour (not including operator).

15. No keys to vehicle: Included in towing services.

16. Passenger vehicle storage rates:

a. First 24 hours: No charge.

b. Second 24 hours: \$20.00.

c. Each day thereafter: \$20.00.

17. After-hours vehicle release, *i.e.*, times other than Monday through Friday, 8:00 a.m. to 5:00 p.m.: \$35.00.

(b) The rates and charges as established herein do not relate to or regulate consensual wrecker services in which the vehicle's owner or operator expressly requests towing or wrecker services from a specific wrecker operator and chooses not to utilize the rotation roster system.

Section 11. Section 25-92 is hereby amended to read as follows:

Sec. 25-92. Removal from the rotation roster.

(a) Wreck companies shall be removed from the roster for the following reasons:

1. Failure of a wrecker to continue to meet the requirements established in Section 25-85;

2. Failure to accept or refusal to respond to six (6) answered calls in any twelve (12) month period. Failure to accept a motorcycle tow shall not constitute a refusal, but will be that company's call for that rotation of the roster;

3. Failure to adhere the decal required in Section 25-85(i) to the wrecker to which it is assigned as evidenced by the decal serial number and police department inspection records;

4. Failure to respond with the wrecker called in violation of Section 25-86(g);

5. Failure to adhere to Section 25-86(h);

6. Failure to adhere to the fee schedule and terms of service as proscribed in Section 25-91;

7. Failure to adhere to the records retention and inspections requirements as provided in Section 25-89.

After a wrecker company has corrected the violation for which it was removed, the wrecker company may reapply for inclusion on the rotation roster using the procedures established in Section 25-85. Three (3) removals of a wrecker company's name from the rotation roster, or conviction of the owner of the wrecker company of a felony, or any criminal conviction of the owner or any employee of the wrecker company for a criminal violation related to the wrecker business shall be sufficient grounds for the permanent revocation or suspension of any and all business licenses and wrecker permits issued to such company by the city.

Section 12. Section 25-93 is hereby adopted to read as follows:

Sec. 25-93. Suspension from the rotation roster.

(a) Upon receipt of proof satisfactory to the chief of police, that any wrecker company has violated any of the provisions of this chapter other than those violations described in Section 25-92, or any other ordinance of the city or law of the state or the United States, the chief of police may, in his discretion, suspend such wrecker company's name from any or all rotation rosters for such length of time as set forth herein. Suspension hereunder shall be established pursuant to the following criteria:

1. For violations of Section 25-86(5) or Section 25-90(b):

- a. First violation: from ten (10) up to thirty (30) day suspension;
- b. Second violation: from twenty (20) up to a thirty-five (35) day suspension;
- c. Third violation: sixty (60) day suspension.

2. For all other violations not specifically covered under paragraph (a)(1) of this subsection or under Section 25-92:

- a. First violation: from five (5) up to a ten (10) day suspension;
- b. Second violation: from ten (10) up to a twenty (20) day suspension;
- c. Third and subsequent violation: from twenty (20) up to a thirty (30) day suspension.

(b) Three (3) suspensions or removal of a wrecker company's name from the wrecker rotation roster within any given twenty-four-month time period, or conviction of the owner of the wrecker company of a felony, or any criminal conviction of the owner or any employee of the wrecker company for a criminal violation related to the wrecker business shall be sufficient grounds for the permanent revocation or suspension of any and all business licenses and wrecker permits issued to such company by the city.

(c) In the event that suspension or revocation of permits or licenses is contemplated against any wrecker company, the police department shall have the authority to require the

wrecker company to make available to the chief of police or his designee any and all books and records of the wrecker company pursuant to any investigation of violations of this chapter by the police department.

Section 13. All other sections of Division 2, Vehicle Towing and Impoundment shall remain in full force and effect.

Section 14. This ordinance shall be construed under, and in accordance with, the laws of the State of Alabama. In the event any provisions of this ordinance are held to be invalid, illegal or unenforceable in any respect, by a court of competent jurisdiction, the remaining portions of this ordinance shall continue in full force and effect.

Section 15. This ordinance shall become effective upon its adoption and publication.

ADOPTED on this the ____ day of _____, 2011.

President of the City Council of the
City of Huntsville, Alabama

APPROVED on this the ____ day of _____, 2011.

Mayor of the City of Huntsville,
Alabama